

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

IN RE:		CASE NO. 14-31348-H4-7
MICHAEL A. MCCANN		
Debtor.		(Chapter 13)

EMERGENCY MOTION TO CONFIRM THAT THE
AUTOMATIC STAY IS NOT IN EFFECT
UNDER 11 U.S.C. § 362(c) (4) (A) (ii)

IF YOU WANT A HEARING, YOU MUST REQUEST ONE IN WRITING AND YOU MUST RESPOND SPECIFICALLY TO EACH PARAGRAPH OF THIS PLEADING. PURSUANT TO BANKRUPTCY LOCAL RULE 9013-1(i) IF YOU BELIEVE THAT EMERGENCY CONSIDERATION OF THIS MOTION IS NOT WARRANTED YOU MUST FILE AN IMMEDIATE RESPONSE; OTHERWISE THE COURT MAY TREAT THE PLEADING AS UNOPPOSED AND GRANT THE RELIEF SOUGHT.

THE UNITED STATES OF AMERICA, on behalf of its agency the Internal Revenue Service (the Service), moves pursuant to 11 U.S.C. § 362(c) (4) (A) (ii) and Bankruptcy Local Rule 9013-1(i) that the Court confirm that the stay under 11 U.S.C. § 363(a) is not in effect in this proceeding.

IN SUPPORT THEREOF, the United States alleges:

1. On November 12, 2013, the debtor filed a petition seeking relief under Chapter 7 of the Bankruptcy Code.
2. The Service is a creditor of the debtor, holding claims against the debtor for unpaid income, FICA and FUTA taxes in an amount in excess of \$3,000,910.81, including a secured claim for

unpaid income taxes for the taxable years 1996 and 1997 in the amount of \$506,350.00.

3. The debtor had filed three bankruptcy proceedings within the year prior to the filing of this Chapter 7 proceeding, both cases had been dismissed.

4. Bankruptcy case number 13-30609 was filed on February 4, 2013 and was dismissed on April 22, 2013.

5. Bankruptcy case number 13-34513 was filed on July 26, 2013 and was dismissed on September 10, 2013.

6. Bankruptcy case number 13-80466 was filed on November 12, 2013 and was dismissed on January 2, 2014.

7. The petitioner filed each of these prior bankruptcies just prior to the government's attempted sales of his property to satisfy a portion of his outstanding income tax liabilities.

8. In each of these dockets the debtor's case was dismissed because of his failure to file all of the required documents with the Court in order to proceed with the bankruptcy.

9. In bankruptcy case number 13-30609 the debtor failed to attend the creditor's meeting as required by 13 U.S.C. § 341.

10. In bankruptcy case number 13-34513 the case was dismissed prior to the date scheduled for the creditor's meeting.

11. The debtor filed the instant bankruptcy proceeding just prior to the proposed sale of his real property to satisfy a portion of his outstanding income tax liabilities.

12. The United States asserts that this motion should be considered on an emergency basis in order to allow the sale of the debtor's ranch by the Internal Revenue Service. The proposed sale of the property has been postponed twice requiring the re-initiation of the bidding process. Additional delay may adversely affect the number of bids and the amounts of the bids for the debtor's real property.

WHEREFORE, the United States requests that pursuant to 11 U.S.C. § 362(c)(4)(A)(ii) the Court issue an Order confirming that the stay under 11 U.S.C. § 363(a) is not in effect in this proceeding.

Dated March 7, 2014 in Houston, Texas.

Respectfully submitted,

KENNETH MAGIDSON
United States Attorney

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CERTIFICATE OF SERVICE

I hereby certify that I have complied with Local Rule 9007 regarding service of the foregoing Emergency Motion to Confirm that the Automatic Stay is not in Effect under 11 U.S.C. § 362(c)(4)(A)(ii) upon the parties in interest listed below and on the attached schedule:

Debtor
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Debtor's Attorney
PRO SE

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United States Trustee
Office of U.S. Trustee
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Suite 3516
Houston, TX 77002

DONE this 7th day of March, 2014.

By: /s/David B. Mora
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